

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD MALDONADO,)
Petitioner,)
v.) Case No. 1:19-cv-328-SPB-RAL
WARDEN FCI McKEAN,)
Respondent.)

MEMORANDUM ORDER

The petition for a writ of habeas corpus in this case was received by the Clerk of Court on November 12, 2019 and was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation (“R&R”) in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), Federal Rule of Civil Procedure 72(b), and the Local Civil Rule 72(D). ECF No. 1. Petitioner, Richard Maldonado (“Maldonado”), is a federal inmate currently housed at FCI-McKean. Respondent filed an answer on February 7, 2020, ECF No. 8, and Maldonado filed a reply on March 2, 2020. ECF No. 9.

On October 4, 2021, Magistrate Judge Lanzillo issued an R&R recommending that the Maldonado’s claims be dismissed for lack of jurisdiction. ECF No. 10. Judge Lanzillo reasoned that Maldonado was attacking the *validity* of his sentence rather than its *execution*, and he had failed to show that relief under § 2255 would be “ineffective or inadequate to test the legality of his detention,” as set forth in in §2255(e) and discussed in *In re Dorsainvil*, 119 F.3d 245 (3d Cir. 1997), and *Bruce v. Warden Lewisburg USP*, 868 F.3d 170, 178 (3d Cir. 2017). *Id.* Therefore, Judge Lanzillo concluded, Maldonado could not pursue habeas relief under §2241.

Objections to the Report and Recommendation were due to be filed no later than October 21, 2021. To date, no objections have been filed.

After *de novo* review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

NOW, this 10th day of November, 2021, IT IS ORDERED that the within petition for writ of habeas corpus shall be, and hereby is, DISMISSED for lack of jurisdiction.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on October 4, 2021, ECF No. [10], shall be, hereby is, adopted as the opinion of this Court.

As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."



SUSAN PARADISE BAXTER
United States District Judge

cm: Richard Maldonado
58673-060
McKean Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 8000
Bradford, PA 16701
(Via U.S Mail)

Kezia Taylor, Esq.
(via CM/ECF)

The Honorable Richard A. Lanzillo
(via CM/ECF)